

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 4016 of 1988

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the Judgment ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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KUM. SAROJ VITHALDAS CHAVDA  
VERSUS  
GUJARAT PUBLIC SERVICE COMMISSION

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Appearance:

MR JV DESAI for the Petitioner  
MR BR DAVE for the Respondent

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CORAM : MR JUSTICE S.K. KESHOTE  
Date of Decision : 29/06/2000

C.A.V. JUDGMENT

Heard the learned counsel for the parties.

1. The petitioner in response to the advertisement of the Gujarat Public Service Commission published in Gujarat Samachar, (Gujarati Daily) in its issue of 16th January, 1988 applied for the post of Lecturer in Costume -design and Dress-making, Gujarat Educational Service, Class-II at Government Polytechnic, Ahmedabad. Her application came to be rejected by the G.P.S.C. vide its communication dated 30th June, 1988 on the ground that the petitioner is not possessing requisite experience as desired for the post. The petitioner approached to the G.P.S.C. and made an attempt to satisfy it that she has requisite experience and in support of which she produced the certificate of the Principal of the Polytechnic where she was posted but G.P.S.C. under its communication dated 15th July 1988 annexure 'H' page No.23 reconsidered the matter and reiterated its earlier decision that she is not possessing the requisite experience.

2. Learned counsel for the petitioner submits that the petitioner though was appointed as Instructor in Flower Arrangement in the Department of Costume design and Dress-making in the Polytechnic college but she was taking regular classes and it has also been certified that she possesses requisite experience of teaching by the Principal and the decision of the Public Service Commission rejecting her candidature on that ground is wholly arbitrary and unjustified.

3. From reply to the special civil application, I find that the post of Instructor in the Polytechnic was not a teaching post under the relevant service rules. In the service rules, as this post of Instructor was not a teaching post, even if the Principal has permitted her to take some classes, I fail to see how it can be said to be a case of acquiring by the petitioner requisite teaching experience so as to make herself eligible for appointment on the post of Lecturer. If we go by the facts of this case itself, I find that in the Polytechnic, teaching posts are of Lecturers and above and admittedly, the petitioner was not holding the post of Lecturer in the Polytechnic College. If the post of Instructor is taken to be a teaching post then I fail to see what difference will remain in between the post of Lecturer and Instructor. So far as the teaching work is concerned, otherwise also, the certificate which has been issued by the Principal certifying that the petitioner has requisite teaching experience has subsequently been withdrawn by him. In the case in hand, except what the petitioner has asserted orally nothing is there on the record which supports her case

that she is possessing the requisite teaching experience. Her case is not supported by the relevant service rules. The teaching experience even if the petitioner acquired while working on the post of Instructor, a non-teaching post, cannot be taken to be a requisite experience and rightly it is held so by the G.P.S.C.. To this decision of the G.P.S.C., no exception can be made.

4. There is yet another ground on which this petition deserves to be dismissed. Both the posts have been filled in. In this case, the petitioner has not impleaded any of the selected candidates as a party. In case the case of the petitioner is accepted then naturally she has to be interviewed and where she is selected for the post then the post has to be made available for her by terminating services of one of the selected candidates, which cannot be permitted behind the back of those persons. In such matters, where the petitioner is claiming her eligibility for recruitment on the post of Lecturer, the candidate selected in the recruitment is a necessary party and behind his back, no decision can be given in favour of the petitioner.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

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